

**MINUTES OF THE ORDINARY MEETING OF THE HOROWHENUA DISTRICT COUNCIL'S
FOXTON COMMUNITY BOARD HELD IN THE CHAMBERS, MAIN STREET, FOXTON ON
MONDAY, 8 FEBRUARY 2010 COMMENCING AT 6:30 PM**

PRESENT

Mr B P Vertongen QSM (Chair)
Ms N J Ellwood
Mr N G Gimblett
Mr J A Murdoch
Mr D J Roache
Cr D A Allan (HDC appointed representative)
Cr A M Hunt (HDC appointed representative)

IN ATTENDANCE

Mr D G Ward (Chief Executive Officer)
Mr B H Austin (Manager - Community Assets)(from
Ms E Ganley (Waste Water Engineer)
Mrs K J Corkill (Meeting Secretary)

ALSO IN ATTENDANCE

His Worship the Mayor, B J Duffy
Mr A Cameron (Solicitor)
Ms C Carlyle (Group Support Officer)

MEDIA IN ATTENDANCE

Mr S Bell ("Chronicle")
Ms H Beaufill ("Beach Press")
Mr W Marshall (Photographer)

PUBLIC IN ATTENDANCE

There were 28 members of the public in attendance at the commencement of the meeting.

APOLOGIES

There were no apologies recorded.

ANNOUNCEMENTS

Foxton Youth Council

Amanda Jackson attending to present to the Foxton Community Board a proposal to establish a Foxton Youth Council.

Speaking Rights Requested

Item 450 Notice of Motion
Bryan Ten Have, Diane Brown, Bruce Barry, Bert Judd, George Halligan

Item 452 Chief Executive Officer's Report - 3a Projects - River Loop Development
Jeremy Manks

Mr Roache advised he wished to speak on the Foxton Swimming Pool and to request further information to come to the next Foxton Community Board meeting.

CONFIRMATION OF MINUTES

Ordinary Meeting 30 November 2009 (Minute Items 442-446)

Resolved

(Allan / Roache)

"THAT the minutes of the Ordinary Meeting held on 30 November 2009 (Minute Items 442-446), as submitted, be confirmed as a true and correct record."

MATTERS ARISING

Following up on the resolution at the last Board meeting to have a workshop to review the process that had taken place over the past two years in relation to the Recycling Centre Upgrade, Mr Gimblett requested that a date be set at tonight's meeting for this workshop.

The status of the resolution relating to the retention of the existing Council Service Centre façade was also queried as there had not been a report on the matter included on this Agenda. Mr Ward advised that this item had been included on the Monitoring Report and a report would come to the March 2010 Board meeting.

REPORTS

Item-449 Foxton Community Board Monitoring Report to 8 February 2010

File No **4107**

Purpose

To provide an update on the Foxton Community Board Monitoring Report to 8 February 2010.

Resolved

(Roache / Hunt)

"THAT Report 4107 be received."

Page 6 Item 445 CEO's Report - Workshop on Recycling Centre Upgrades

Mr Gimblett reiterated that what was being asked for was not a review of how well recycling was going, but to look at the process, how decisions were made, and the relationship between the Board and Council.

It was agreed that this matter would be better dealt with in a workshop environment and it would be included on the next workshop agenda.

Mr Vertongen left the table for consideration of the following item, with the Deputy Chair, Mr Gimblett, assuming the Chair.

Before bringing the item to the table, Mr Gimblett commented that this was an emotive issue with the Board needing to look beyond the emotion and move through the correct process. He outlined the behaviour expected from those in attendance: no interjections from the floor, with everyone being entitled to respect and silence whilst they were speaking. Anyone contravening those rules would be asked to leave the meeting. Unless prior approval had been given, no recording of the meeting was allowed.

Item-450 Notice of Motion

File No **4120**

Purpose

The Chief Executive has received a Notice of Motion from Councillor DA Allan in respect to a breach of the Foxton Community Board's Code of Conduct.

The purpose of this report is to allow Councillor Allan to speak to his Notice of Motion, for the Chief Executive Officer to provide responses to procedural matters and for the Board to consider any course of action.

Resolved

(Hunt / Allan)

THAT Report 4120 be received.

Mr Ward spoke briefly to the content of the report and the process to be followed by the Board. Those who had requested speaking rights would be given the opportunity to speak and then Cr Allan would speak to the motion, prior to moving it. If there was a seconder, debate would follow.

Mr Ward noted that at its meeting on 12 November 2007 the Board had resolved to set up a subcommittee to investigate any alleged breaches of the Code of Conduct comprising the Board Chair, Deputy Chair and a member of the public with appropriate expertise. This would require an amendment to the proposed resolution. Obviously in this instance, the Chair would be precluded from participating in such a subcommittee. Should the motion be passed, the matter would be reported back to the next meeting of the Community Board.

With regard to Board members participating in tonight's debate, it was a matter of conscience for each member to decide whether they could make a decision with an open mind. Any comments should be restricted to the merits of the respective resolutions; it was not an opportunity to express adverse comments.

Mr Ward introduced Council's solicitor, Mr Andrew Cameron, to the meeting who would be able to assist with any procedural or legal matters.

Because he had been with Mr Vertongen when the alleged incident occurred, Mr Roache requested clarification of his position and chose to withdraw from the table.

Mr Bryan Ten Have joined the table to exercise his speaking rights. Mr Ten Have said he agreed with the introductory comments made, particularly the reference to the respect for each other. He further commented:

- it would be a direct stroke at democracy if members of the public were intimidated or bullied or publically humiliated for putting in submissions;
- it was important that the public see this matter addressed in a proper forum;
- he thanked the Chairperson and Mr Roache for standing down;
- he queried if Mr Murdoch should not step aside and he was also involved;
- it was his opinion that all Board members, as well as the CEO, could be perceived to have a conflict of interest;
- it would be unfair if the Chair was victimised or whitewashed;
- he suggested/requested that the enquiry be held completely independently as it was too close to home and would preclude any perception of conflict of interest;
- people did not agree with each other all the time, but should not be attacked for holding differing opinions;
- it was important that the matter be addressed quickly and fairly.

Mrs Diane Brown, on behalf of the Levin Ratepayers Association, commented on her concerns about previous comments made by the Mayor about fairness and respect which did not seem to be borne out in the current situation. A copy of Mrs Brown's comments are **attached** to the official minutes.

Mr Bert Judd was welcomed to the table and expressed his concerns:

- he had wanted to speak at the previous Board meeting but had been denied the opportunity;
- over the course of the years Council had asked its ratepayers to put in submissions, which was the way ratepayers were part of the decision making process;
- some of the comments that were reported in the paper raised issues about the credibility of organisations such as WECA;
- WECA were disappointed as an environment group about the situation that had arisen;
- Individuals and groups such as WECA should be able to put in submissions without criticism.

Mr Bruce Barry said he had come along with an emotive speech, but upon consideration felt it would be inappropriate to proceed with that. However, the whole issue had been emotive from the beginning and had upset the community. He expressed concern about the area being held back by the actions of some in the community. He concluded his comments by saying that Foxton should move ahead and be given the chance to grow economically and socially.

As a recent resident, having moved to Foxton Beach four months ago, Mr George Halligan said he was becoming involved in local affairs. He supported Mr Barry's comments as he felt Foxton Beach was being held back by three or four people, which he felt was unhelpful. Given the opportunity Foxton could be a great asset to the Horowhenua.

In response to a query as to whether Mr Ten Have was correct in law that all Board members had a conflict of interest, Mr Ward said that Board members needed to be sure they could consider the issue with an open mind. He was confident that Board members would be able to do so.

Mr Cameron supported Mr Ward's comments. It was for Board members to acknowledge if they felt they could not vote on the matter impartially, whether or not they had previously expressed a view. Members needed to put prejudice aside and make a decision with an open mind. If they were not able to do so then they should stand aside.

Moved: Allan

Seconded (pro forma): Hunt

“THAT the Chair breached the Foxtton Community Board’s Code of conduct by his actions in burning the article involving Mr & Mrs Paton while acting in his capacity as Chair in officially opening the Foxtton Beach Seawall” and

“THAT the Chief Executive Officer be instructed to report to the Board on the process to be followed in the event that the first motion is carried by the Board.”

In speaking to the motions Cr Allan thanked the submitters for their comments and the diversity of opinion. He personally believed he could meet the test and was prepared to listen with an open mind and make an impartial decision. He had in the past voted against motions he had moved if he had been persuaded to a different course of action.

Cr Allan further commented:

- the motions on the table in no way reflected on his opinion of the Chair, for whom he had a great admiration and respect;
- Mr Vertongen had done good work for the people of Foxtton;
- he had taken issue with the actions last year when an article containing a photograph of the Patons had been burnt as by definition it implicated not only himself but all other members of the Board;
- it was important that Mr Vertongen should have the opportunity to explain his actions;
- there was also the need to see the actions from Mr & Mrs Paton’s viewpoint;
- how the Chair’s actions relate to the clauses in the Code of Conduct around Productive Relationships, etc, needed to be considered;
- these were hard questions that needed to be asked;
- in bringing this Notice of Motion he was publically disassociating himself from actions that could be seen as being disrespectful of the democratic process;
- an independent group would determine the concerns raised.

Cr Hunt said she had seconded the motions, pro forma, with some degree of concern. What was being discussed tonight was not whether the Chair had breached the Code of Conduct, but to ensure that he had a fair process to defend his actions, which was incredibly important. Cr Hunt continued:

- it was not about actions by Mr & Mrs Paton;
- the right of everyone to put in submissions to the Annual Plan Process, LTCCP and RMA, needed to be respected;
- Council was going through a District Plan Review and people needed to be assured that no one would be intimidated if a submission was not to everyone’s liking;
- Cr Allan, as the Chair of the Hearing Committee, had every reason to be concerned about being implicated in such actions;
- she had nominated the Chair for the Queen’s Honour and this was not a matter of talking about an individual, but talking about an individual in his capacity as Chair of this Board;
- she had thought long and hard about conflict of interest issues and wanted to ensure the process was fair;
- she herself had been through a Code of Conduct hearing and the person appointed as an independent party has resigned from the subcommittee because he felt the process breached her right to natural justice;
- she did have some concerns about the resolution as worded as it may have an element of predetermination;
- she would vote against the motion as she believed that this matter should be referred to an independent body to ensure impartiality;

- she herself had provided Mr & Mrs Paton's lawyers with a sworn affidavit; Cr Allan and Ms Ellwood had been quoted in the paper;
- it was not whether there was a conflict of interest but a matter of bias and every member of the Board should not be involved in the process;
- however, whether or not Mr Vertongen should remain in the Chair should not be a matter for an independent body, but should be decided by the Board;
- first the process needed to be followed needed to be identified.

Whilst not entirely agreeing with Cr Hunt, Ms Ellwood said she understood they were talking about putting a process in place and not deciding tonight whether the Chair had breached the Code of Conduct. She did agree that everyone had the right to make submissions and object to projects that Council might bring up; however she did not agree that there needed to be an independent group to consider this matter.

Mr Murdoch stated that he had been a witness to the incident and felt the matter has been blown up out of all proportion, particularly as the Patons had not been mentioned by name. He also agreed with Ms Ellwood that the matter should be dealt with in-house.

Cr Allan in exercising his right of reply, commented:

- it was important to understand the differing views held;
- despite concerns about the wording of the resolution and possible predetermination, the matter would be investigated by an independent panel;
- tonight's task was to decide whether there was something to be investigated and if so, to put a fair process in place.

Cr Hunt suggested a rewording of the motion proposed by Cr Allan to refer to an independent panel, with the identity of the independent panel yet to be established.

Mr Ward drew the meeting back to Cr Allan's original recommendations, which were required to be voted on.

Mr Gimblett requested Board members to vote on each motion separately:

There were three (3) in favour of the first motion, and one (1) against (Cr Hunt). The motion was therefore CARRIED.

Four (4) voted in favour of the second motion, which was therefore CARRIED.

In response to Cr Hunt's reiteration that she had provided a sworn affidavit to the Paton's lawyer, Andrew Cameron said that may well be evidence adduced to the enquiry as the Patons may well be represented during the process, as would Mr Vertongen. It was a matter of ensuring that the evidence was simply given in accordance with observations of what had occurred. The affidavit was not relevant to this evening's process.

Resolved

(Ellwood / Murdoch)

"THAT the Board receive the Code of Conduct complaint made by Councillor D A Allan."

Mr Ward said he was now required to advise the Board on the process to be followed. Normally the process would be as prescribed in the Code of Conduct. Obviously the Chair could not be part of any Subcommittee and it was not appropriate to make a decision who should be invited to join the Deputy Chair on that panel.

Mr Cameron confirmed the legal position having regard to Section 54 of the Local Government Act 2002, Schedule 7, that a Subcommittee must be made up of no less than two persons and a panel made up of the Deputy Chair and one or two independent persons was allowable.

Resolved

(Allan / Hunt)

“THAT the Deputy Chair and two (2) members of the public who have the requisite skills/expertise be appointed to investigate whether the Foxton Community Board’s Code of Conduct has been breached.”

“THAT the member to which the complaint relates be notified in writing of the complaint and explain when and how he will get the opportunity to put his version of events.”

On being put, there were three (3) for the motion and two (2) (Mr Murdoch and Ms Ellwood) against. The motion was therefore CARRIED.

It was clarified that should a breach be determined, only the members of the Foxton Community Board could determine what sanctions should be imposed.

Mr Ward said a Subcommittee would now be put in place and this matter would assume a high level of priority, with it anticipated it would be reported back to the March 2010 Community Board meeting.

The meeting recessed for five (5) minutes, following which Mr Vertongen resumed the Chair and called the meeting to order (7.55 pm).

Item-451 Council Resolutions relating to Foxton Community Board

File No 4109

Purpose

To inform the Board of resolutions that the Horowhenua District Council passed at its meeting on 2 December 2009.

Resolved

(Allan / Hunt)

“THAT Report 4109 be received.”

Page 10 Item 1814 - Foxton Health Centre

Cr Allan advised that at its December meeting Council had rejected the motion put by the Board in relation to a suspensory or concessionary loan for the Foxton Health Centre. However, the Annual Plan process had its own rigor and the Board was within its rights to apply anyway.

Item-452 Chief Executive Officer's Report to 8 February 2010

File No 4110

Purpose

To present to the Foxton Community Board, for information, issues relating to the Foxton Community Board area.

Resolved

(Allan / Roache)

"THAT Report 4110 be received."

Page 17 3a. Foxton Youth Council Committee

Mr Ward prefaced the presentation by members of the Foxton Tourist & Development Association by saying that approximately 12 months ago the Horowhenua Youth Voice had been established and it had been a raging success.

Amanda Jackson, Paul Andrews and Raina Fowlds from FTDA spoke in support of establishing a Youth Council to cater for two age groups of youth in Foxton, outlining the benefits that would be gained and how they could see the Youth Council operating. Two coordinators were in place and the Foxton Police had been canvassed and had expressed support.

The organisers knew they had the support from the Youth Voice in Levin and good support from Council. The support of the Foxton Community Board was now sought and the organisers looked forward to working together with both the Board and Council going forward.

Resolved

(Hunt / Allan)

"THAT the Chief Executive Officer facilitate a meeting of the Foxton Youth Council's Committee and the Horowhenua Youth Voice with a view to establishing a youth programme for the benefit of the Horowhenua District with a report to come back on the outcome."

Although what was proposed was to create a sense of belonging for the youth of Foxton and a lot of work needed to be done in that area, the wording of the resolution enabled the group to be seen in the wider context.

Page 15 3a. Projects

The projects listed were the priorities identified in October 2008, the projects that the Board supported through year 2 of the LTCCP, and set the scene for the programmes that would be supported for the balance of the electoral year.

Cr Hunt requested a report on the impact of recycling crates when it came to holiday home users. Was the bin option supported or was there a continuing need to provide a recycling station.

NOTED

In relation to the Dutch Museum (Foxton Multi-Purpose Facility), Cr Hunt queried if a date had been set for further consultation as she had seen some shop signage alluding to such consultation.

Mr Vertongen, one of Council's representatives on the Electoral College, reported that the Electoral College had had its first meeting on Friday 5 February 2010. At that meeting advertising for Trustees had been decided, as well as the process for trustee selection.

Cr Hunt provided Mr Ward with a copy of a newspaper article that she had alluded to at a previous Council meeting with regard to funding of the project.

In relation to the Foxton Health Centre, Mr Ward said he had been to a meeting on the project last week. Council's involvement at this point in time was as a supporter of the initiative; there had been no financial commitment.

Mr Gimblett said there was clearly a group of people in the town who were prepared to support the project and at the moment it did have a good head of steam. He would continue to be optimistic. Another fact that had come out of the last meeting was that places such as Foxton were not longer off limits to GPs. He had heard of a locum who would like to come back to Foxton and his concern was that there would be GPs wanting to come to Foxton and there would be nowhere to put them.

It was suggested, to progress the Pinewood Motor Camp upgrade, that Messrs Vertongen, Roache and Murdoch meet with relevant Council staff to move this matter forward and for a report to come back to the March Board meeting.

Resolved

(Allan / Gimblett)

"THAT Messrs Vertongen, Roache and Murdoch meet with relevant Council staff to progress the Pinewood Motor Camp development."

Holben Reserve

Resolved

(Allan / Roache)

"THAT the Board undertakes a review of the proposed landscape plan for Holben Reserve with a view to incorporating any changes and required investment into Council's next LTCCP."

River Loop Development

Jeremy Manks was welcomed to the table. Mr Manks, as a resident of Foxton and a member of the Save Our River Trust, expressed his concern about a submission made to Horizons in relation to the River Loop in which it was suggested that opening the River Loop would exacerbate any future floods. This was not substantiated and he wanted to address any misconceptions about what SORT did intend for the River Loop. He was also concerned about the very negative attitude expressed against development and expansion of tourist attractions in Foxton.

SORT was in the process, working collaboratively with Horizons and the Horowhenua District Council, of looking at water quality, water quantity, ecology and future management. It was also his view that Central Government should bear some responsibility because of the diversion of the river 50 years.

Mr Vertongen commented on the tidal gates that had been installed by SORT, which subsequently had to be removed, but which he felt had assisted particularly with weed management. He suggested that Horizons should be questioned as to why something that had been working had had to be removed.

Mr Manks said that originally they had been advised in writing that the gates were permissible, which advice was in error. The gates did not comply with the Resource Management Act. SORT was now following the correct process and was working with the support of HDC and the growing support of Regional Council, to make a full assessment of what would be best with regard to the water flow in the river. As many interested parties as possible would be involved in the process and kept informed.

Better liaison between SORT and the Board was suggested, and if SORT was to make a submission to the Annual Plan process, it may be useful for the Board to see that submission. Mid-May was the deadline for submissions. Such a submission may or may not have financial implications.

It was suggested that 3a (Projects Report). & b. (Draft 2010/2011 Annual Plan) may be the catalyst for an initial workshop or workshops, with the first workshop to be held as soon as possible to get a better background of what should be included on the Board's priority list, with SORT to also be included in the process.

Mr Ward said he would circulate some suggested workshop dates tomorrow (9 February 2010).

NOTED

Cr Hunt returned the discussion to Holben Reserve. She had noted a bird hide/shelter when the footpath had been worked on which she understood had been funded by Horizons, HDC and DoC. She hoped it had the required consents and would not be removed. She requested a check to ensure the hide would remain.

NOTED

Mr Vertongen expressed his pleasure at the installation of the footpath, particularly as it now became part of the coastal walkway.

3.d. Foxton Hall Entrance Ways

Mr Roache queried why a resource consent was required for the Hall entrance ways rather than a building consent.

NOTED

Water Supply

Mr Austin gave an update on progress, with the screens to be delivered in approximately three weeks.

Cr Hunt reminded the Board of the Freeholding Fund Policy and Strategy when it came to funding projects, particularly in relation to the recommendation to place a showhome on the Forbes Road subdivision, which had been included in the Open rather than In Committee Agenda.

Item-453 Resource Consents Issued

File No 4111

Purpose

To receive the listing of land use and subdivision resource consent applications approved under delegated authority.

Resolved

(Allan / Roache)

“THAT Report 4111 be received.”

“THAT the list of land use and subdivision resource consents be received.”

***Foxton Subdivision Resource Consents Granted Under Delegated Authority
20/11/09 to 19/1/10***

Date	File Ref	Subdivider	Address
18-Jan-10	SUB/2865	Malcolm Webb & Gail Cole	37 Edinburgh Terrace, Foxton Beach

***Foxton Land Use Resource Consents Granted Under Delegated Authority
20/11/09 to 19/1/10***

Date	File Ref	Applicant	Address
27-Nov-09	LUC/2851	Andrew & Lynette Clegg	18A Roore Street, Foxton Beach
4-Dec-09	LUC/2853	Anthony & Dean Stella & Angela Cook	209 Avenue Road, Foxton Rural
14-Dec-09	LUC/2861	Jonathan Chapman	16 Brown Street, Foxton
24-Dec-09	LUC/2875	Clive McAlpine & Raewyn Mullan	16 Wall Road, Himatangi/Foxton Rural
24-Dec-09	LUC/2879	Jim, Robert, & Karen Mather	112 Palmer Road, Foxton Beach Rural
11-Jan-10	LUC/2867	Kevin & Sylvia Young	7 Thomas Place, Foxton Beach”

As signaled at the commencement of the meeting, Mr Roache requested that further information be brought to the March 2010 Community Board meeting in relation to the Foxton Pool, such information to include why the Swimming and Surf Clubs were not utilising the Pool.

Moved: Roache

Seconded: Hunt

“THAT a report be brought to the March 2010 Foxton Community Board meeting on the operation of the Foxton Swimming Pool, such report to include Council's policy for the use of the Pool and why the Swimming and Surf Clubs were not utilising the facility.”

CARRIED

MOTION TO EXCLUDE THE PUBLIC

Resolved

(Roache / Ellwood)

"THAT the Foxtton Community Board pursuant to Section 48, Local Government Official Information and Meetings Act 1987, resolves that the public be excluded from the following parts of the proceedings of this meeting.

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act or Section 6 or Section 7 or Section 9 of the Official Information Act 1982, as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public."

**Confirmation of Minutes Ordinary Meeting 30 November 2009 (Minute Items 447-448)
Item 454 - Proposed Acquisition of Land for Foxtton Waste Water Disposal
Item 455 -In Committee Foxtton Community Board Monitoring Report 8 February 2010**

Reason for Confidentiality

*These Reports are **CONFIDENTIAL** in accordance with Section 48(1) of the Local Government Official Information and Meetings Act 1987, which permits the meeting to be closed to the public for business relating to the following grounds: -*

- 48(1a) That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.*

Subject to sections 6, 8 and 17 of the Local Government Official Information Act 1987, the withholding of the information is necessary to:

- 7(2a) Protect the privacy of natural persons, including that of deceased natural persons.*
- 7(2i) Enable any local authority holding the information to carry out, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).*
- 7(2j) Prevent the disclosure or use of official information for improper gain or improper advantage.*

Resolved

(Roache / Allan)

"THAT His Worship the Mayor be requested to remain in the meeting to take advantage of his knowledge in relation to items on the Agenda."

MEETING CLOSURE

There being no further business the meeting concluded at 9.18 pm.

CONFIRMED this

day of

2010

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Chairperson